THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Sales Tax Revision No. 37 of 2002
Old S.T.Revision No. 1442 of 1992

The Commissioner, Sales Tax, U.P.

...Revisionist.

Versus

Kishan Sehkari Chini Mill, Nadehi, Jaspur (Kashipur)

…Opposite Party.

Sri pitambar Maulekhi, Addl. Advocate General, learned counsel for the revisionist.
None appeared for the opposite party.

Dated April 25, 2006

PC:
(Hon'ble B.S.Verma, J.)

Heard Sri Pitambar Maulekhi, learned Additional Advocate General for the revisionist. None appeared for the respondent.

This revision under Section 11 (1) of the U.P. Sales Tax is directed against the judgment and order dated 29-5-1991 passed by the Sales Tax Tribunal Bareilly, whereby the appeal of the respondent was allowed and the assessment orders relating to the appellant was set aside.

Initially this revision was filed before the Allahabad High Court as back in the year 1992 and was received by transfer under Section 35 of the U.P. Reorganisation Act, 2000.

The only question of law, raised in the revision, is whether the price of gunny gas were liable to be taxed by adding the same in the turnover of the dealer with the price of sugar?

The assessment in the present revision relates to the year 1986-87, for which year the tax on sugar was exempted under

Section 4 of the U.P. Sales Tax Act, 1948 ***(for short the Act).*** It is not disputed that sugar is always sold in gunny bags as it is packed in such bags before it is stored for sale. The assessee is the manufacture of sugar and was not supposed to keep sugar in loose condition without any packing.

There is no evidence on record to suggest that there was any direct agreement between the assessee and the purchaser of sugar for sale of gunny bags for any specific amount as consideration. Therefore, merely on the basis of the fact that the sugar was sold in gunny bags by the manufacturer, it cannot be said that the assessee had sold the gunny bags. As no price was paid for the gunny bags, there cannot be said to be sale of gunny bags as it does not come within the definition of sale, in view of Section 2(h) of the said Act.

For the reasons aforesaid, the revision petition has no force and the same is dismissed in-limine.

(B.S.Verma J.)

RCP